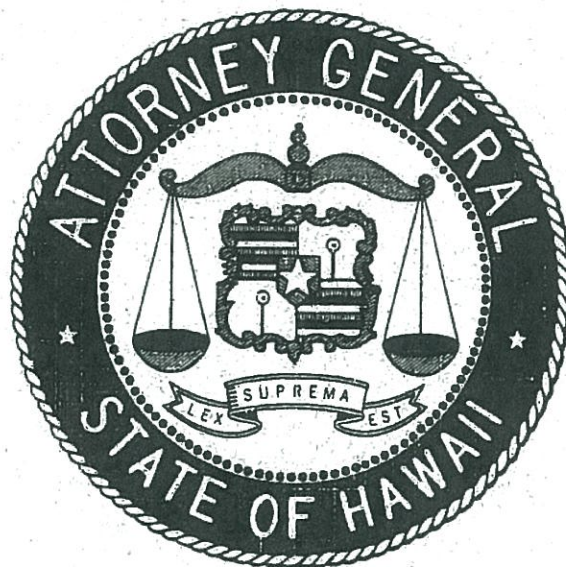


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DOMESTIC VIOLENCE & THE CRIMINAL JUSTICE SYSTEM IN HAWAII



December, 1999

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Technical Assistance was provided by the STOP Violence Against Women Grants, Technical Assistance Project.

The Judges who served on the DVWG did so within the parameters of the Revised Code of Judicial Conduct, particularly Canons 4A.(1), 4B and 4C.(2). They, and other judiciary representatives, served for the purpose of information sharing and improving the administration of justice.

**Findings and Recommendations For Action
Made To the
Legislature of the State of Hawaii
in Response to
1999 House Concurrent Resolution No. 65, HD1**



**DOMESTIC VIOLENCE &
THE CRIMINAL JUSTICE SYSTEM
IN HAWAII**

**State of Hawaii
Department of the Attorney General
December, 1999**

BENJAMIN J. CAYETANO
GOVERNOR



EARL I. ANZAI
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FORWARD

HCR 65 HD1 provided a venue for the criminal justice system agencies and service providers to examine the process that occurs in domestic violence situations. The Domestic Violence Working Group (DVWG) members are commended for their diligence and commitment to improving the system response to victims of domestic violence.

Domestic violence is a critical issue that impacts everyone in our community. It will take a continued coordinated effort to improve our system response to meet victims' needs and enhance victim safety.

It is anticipated that the recommendations of this report will enable the criminal justice system and domestic violence services agencies to more effectively respond to the needs of domestic violence victims in Hawaii.

A handwritten signature in black ink, appearing to read "Earl I. Anzai", written over a horizontal line.

Earl I. Anzai
Attorney General

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Executive Summary

House Concurrent Resolution No. 65, House Draft 1, Regular Session 1999, requested the State Attorney General to convene a working group, and to submit a findings and recommendations report to the Legislature before the convening of the Regular Session of 2000.

Pursuant to the Legislative mandate, the scope of this Report is limited to the policies and procedures of the criminal justice system on Oahu as they relate to cases of domestic violence, and to recommendations for changes to improve the system.

Because domestic violence issues intersect both the criminal and civil justice systems, the scope of this Report includes an examination of civil justice policies and procedures where they involve protective orders.

Although the focus was the City and County of Honolulu, the Group invited comment from neighbor island and statewide entities and organizations. These comments were discussed by the Group, and some Recommendations may be applied on a statewide basis.

Because the criminal justice system as it pertains to domestic violence involves three court divisions and criminal as well as civil law, this Report contains a significant amount of background information about the criminal justice system. A comprehensive understanding of this system is crucial for the entities involved in implementing the Recommendations, and for the Legislature to support these initiatives.

In particular, this Report covers statutory definitions of domestic abuse, descriptions of common criminal charges for domestic abuse and the issues involving their application, and an overview of the criminal justice system for a domestic violence occurrence.

The Group used the overview of the criminal justice system to structure its review of

the policies and procedures of the criminal justice system. The overview follows the offender charged with domestic abuse through the criminal justice system, and includes the victim's perspective during this process.

Gaps and needs were identified, and Recommendations were made by consensus of the entire Group. Accordingly, all of the Recommendations contained in this Report are supported by all of the Domestic Violence Working Group members.

The focus of the Recommendations are to

- enact substantive changes to domestic violence laws,
- implement statutory and procedural changes necessary to share information with victims and between the criminal justice system and service providers,
- create a coordinated judicial system to handle domestic violence cases,
- promote a comprehensive and consistent response to domestic violence,
- improve the safety of victims of domestic violence and their children, including enhancing and expanding the delivery of services, and
- strengthen domestic violence intervention services for offenders to reduce the incidence of domestic violence and to promote accountability.

The Domestic Violence Working Group recommends that the Legislature take two further actions to further promote the improvement of the criminal justice system as it relates to domestic violence.

- First, the work mandated by House

Concurrent Resolution No. 65, House Draft 1, should be continued and financially supported for the purpose of facilitating and coordinating the implementation of the Recommendations in this Report.

- Second, the Legislature should convene a specialized group to examine the justice system as it relates to youth involved in domestic violence, including complex issues regarding protecting children who witnesses domestic violence and the special needs of adolescents who are subject to partner abuse.

The Domestic Violence Working Group appreciates the legislative prioritization of domestic violence issues. The criminal justice system in Hawaii made great strides in addressing domestic violence over the past decade. Many organizations and entities made this issue one of their top priorities.

Hawaii is at the forefront in many of its responses and initiatives on domestic violence criminal justice matters, and has a tremendous opportunity to continue to be a national model.

Introduction

HAWAII'S PROGRESS ON DOMESTIC VIOLENCE ISSUES

Many entities within the criminal justice system make domestic violence a priority issue. This mutual concern creates a momentum within the state that provides a wonderful opportunity for improvement.

The DVWG acknowledges the hard work and dedication of numerous groups within the state, and encourages the Legislature to continue to foster this progress through legislative mandates and financial support.

Hawaii can capitalize on its past initiatives and progress, and continue to be a national model of best practices in the criminal justice system response to domestic violence.

ORIGINS OF THE DOMESTIC VIOLENCE WORKING GROUP

The Legislature of the State of Hawaii recognizes that "domestic violence is among the most critical issues impacting the lives of women and girls today, affecting their health and economic viability, and endangering their lives and often the lives of their children; and ... the majority of women murdered in Hawaii are killed by their partners or boyfriends." *House Concurrent Resolution No. 65, House Draft 1, Regular Session 1999* (hereinafter HCR No. 65, HD 1). *See Appendix A.*

In order to implement the most appropriate action to reduce the incidence of domestic violence related homicides and suicides, the Legislature directed a working group to identify gaps in the Oahu criminal justice system.

The working group was to highlight critical and missing information that could effectively focus Hawaii's law enforcement and service providers' efforts to better meet victims' safety needs.

The Attorney General convened this working group. The DVWG first met on July 20, 1999, and continued work at numerous facilitated proceedings over the course of the next three months with the assistance of the STOP Technical Assistance Project and Judiciary's Center for Alternative Dispute Resolution. DVWG members reviewed each draft of the report from August through November. Over 2,000 working hours were contributed by the DVWG to outline the domestic violence criminal justice system policies and procedures, identify gaps and issues regarding that system, and to make recommendations to improve that criminal justice system.

HCR No. 65, HD1 provided a concise list of DVWG members in order to accomplish the goal of producing specific recommendations. However, in the interest of obtaining additional input, the Department of the Attorney General invited public comment via its website as well as solicited comments from targeted groups.

Over 85 persons in 17 agencies, departments and organizations were contacted. Thirteen people responded and identified gaps they perceived in the criminal justice system. These responses were reviewed by the DVWG, and considered in making the recommendations.

The list of organizations and entities contacted, are noted in *Appendix B.*

FUTURE OF THE DOMESTIC VIOLENCE WORKING GROUP AND RELATED WORKING GROUPS

IMPLEMENTATION OF THE DVWG RECOMMENDATIONS

The DVWG drafted 31 recommendations to improve the effectiveness of the criminal justice system on Oahu and across the state, to reduce domestic violence and better meet victims' safety needs.

These recommendations are only valuable insofar as they are actually implemented. The recommendations require a variety of actions by a broad array of entities. See Table on Page 43.

The Legislature needs a responsible and well-informed group to monitor and report back on the status of the implementation of these recommendations. This will ensure consistency and continued progress in the efforts to improve the criminal justice system relating to domestic violence. *See Recommendation F-1.*

ADDITIONAL WORKING GROUPS NEEDED TO ADDRESS RELATED FAMILY VIOLENCE ISSUES

The scope of this report and the membership of the working group was defined by HCR No. 65, HD1. However, it became apparent to the Group that there are additional issues that are related to the ability of the criminal justice system to protect women and children from violence within the family but which were too broad for this DVWG to address given the time and membership constraints.

In particular, there are complex issues regarding policies and procedures of various entities when children are present during and/or witnesses to domestic violence.

A specialized group should be convened to examine these issues. Members should include Child Protective Services, Department of

Education, welfare services, health services, and others.

Issues to be examined by that group include:

- protecting children without re-victimizing the child and without punishing adult/parent victims of domestic violence, and
- addressing the special needs of adolescents who are victims of partner violence.

The DVWG made several recommendations pertaining to youth and adolescents. *See Recommendations D-1, D-2, and E-3.* These recommendations however, do not comprehensively address the complex needs of children exposed to domestic violence and the needs of their adult/parent victim. *See Recommendation F-2.*

Scope of the Report

The DVWG defined the scope of this report as follows:

1. The group's report is written from the perspective of safety for victims.
2. The report includes a review of the policies and procedures of the criminal justice system on Oahu as they relate to cases of domestic violence, in order to identify gaps and areas requiring change or further attention by those in the criminal justice system, and to make recommendations for change.
3. For the purposes of the report, the criminal justice system includes governmental entities and organizations with formal relationships with governmental entities (for instance, through a purchase of service contract or a memorandum of agreement).

Because domestic violence issues intersect both the civil and criminal justice systems, this report examines civil justice policies and procedures where they involve the issuance of protective orders.

4. The group's study examined the civil justice system only to the extent that there is an intersection with the criminal justice system, and as it would involve the issuance of protective orders.

Policies and Procedures

For the purposes of this report, policies and procedures are defined as follows:

Policies are a principle or course of action chosen to guide decision making.

Procedures address how to accomplish and operationalize policies. Procedures may be written or unwritten. They are a method of establishing a series of steps or prescribed forms to follow.

Both policies and procedures may be based on specific law(s), or in cases where the law is silent, may be developed to guide staff in performing an organization's mission.

Intersection Between Civil and Criminal Justice System

Domestic violence issues intersect both the criminal and civil justice system. For example, Temporary Restraining Orders (TROs) are civil orders obtained through the civil justice system. However, TROs become criminal justice matters if the terms of the orders are violated. Accordingly, these intersecting civil justice matters are directly related to criminal justice efforts to enhance safety for victims of domestic violence.

Due to this intersection of systems, this report examines civil justice policies and procedures where they involve the issuance of protective orders.

Some Statutory Definitions of Domestic Abuse

The statutory definitions of domestic abuse are the basis of many organizations' policies and procedures. Accordingly, it is important to note the distinction between civil and criminal statutes that include a definition of domestic abuse. The criminal statute requires physical injury.¹

The civil statutes define domestic abuse to include three *additional* circumstances:²

- (1) the *threat of* physical injury,
- (2) property damage, or
- (3) patterns of harassment causing emotional distress.

This distinction creates issues in the overall efforts to enforce domestic violence laws.

Criminal Definition of Domestic Abuse	Civil Definition of Domestic Abuse (Family Court)	Civil Definition of Harassment (Abuse) (District Court)
<p>HRS §709-906(1)</p> <p>"It shall be unlawful for any person, singly or in concert, to physically abuse a family or household member . . ."</p> <p>The Hawaii Courts have interpreted physical abuse to include physical injury, <u>State v. Kameenui</u>, 69 Haw. 620 (1988), and that physical abuse means to cause "injury, hurt, or damage to that person's body." <u>State v. Nomura</u>, 79 Haw. 413 (App. 1995).</p>	<p>HRS 586-1</p> <p>"As used in this chapter: "Domestic Abuse" means: (1) Physical harm, bodily injury, assault, or <i>the threat of</i> imminent physical harm, bodily injury, or assault, <i>extreme psychological abuse</i> or <i>malicious property damage</i> between family or household members... "</p> <p>Emphasis added.</p>	<p>HRS 604-10.5</p> <p>"'Harassment' means: (1) Physical harm, bodily injury, assault, or the threat of imminent physical harm, bodily injury, or assault; or</p> <p>"(2) An intentional or knowing course of conduct directed at an individual that seriously alarms or disturbs consistently or continually bothers the individual, and that serves no legitimate purpose..."</p>

HRS §709-906 and the two civil statutes above are relevant to this report, as they provide legal definitions of domestic abuse that are adopted or followed in many organizations' policies and procedures. They also illustrate the difference in breadth of coverage between civil and criminal domestic actions.

¹ HRS §709-906 is not the exclusive criminal charge for domestic abuse cases. Criminal charges for a domestic abuse incident may be brought under any criminal statute. Because other statutes, such as Terroristic Threatening, apply to non-domestic cases as well, they do not contain a definition of domestic abuse.

² Civil claims for abuse are heard in two different forums, depending upon the relationship between the parties. Abuse of a family or household member is reviewed in Family Court under HRS 586. Abuse claims between non-family or household members are reviewed in District Court under HRS 604. A "domestic abuse" civil claim between boyfriend and girlfriend who do not live together is heard in District Court.

Description of Common Criminal Charges for Domestic Abuse and Issues Involving their Application

I. DESCRIPTION OF COMMON CRIMINAL CHARGES FOR DOMESTIC ABUSE

Domestic Violence (or "DV") may be charged as a felony or misdemeanor, depending upon the injury to the victim and/or the number of prior convictions of the offender. The charges may be heard in Family Court, District Court, or Circuit Court, depending upon the relationship between the parties, and the degree of charge.

DV criminal cases may be filed under a variety of felony or misdemeanor charges, including homicide, assault, sexual assault, kidnapping, reckless endangering, terroristic threatening or harassment. However, most DV cases involve some kind of physical assault or threat.

The Hawaii Penal Code contains three degrees of assault, two are felonies and one is a misdemeanor. In addition, a fourth charge in the Penal Code addresses misdemeanor assault against a family or household member. It is helpful to have a clear outline of these charges in order to understand the criminal justice system policies and procedures and the recommendations made in this report.

- Assault in the First Degree, a Class B Felony. The intentional or knowing infliction of *serious bodily injury*;
- Assault in the Second Degree, a Class C Felony. The intentional or knowing infliction of *substantial bodily injury*;
- Assault in the Third Degree, a misdemeanor. The intentional,

knowing or reckless infliction of *bodily injury*; and

- HRS §709-906 Abuse of a Family or Household Member, a misdemeanor (may be charged as a Class C Felony if offender has two prior HRS §709-906 convictions, and the second conviction occurred within the past two years). The infliction of *physical abuse* on a family or household member.

Criminal charges for domestic abuse may be heard in any one of three courts, Circuit, Family or District, depending upon the degree of charge and the parties involved.

The District Court presides over any misdemeanor and petty misdemeanor cases involving non-family or household members.

The Family Court presides over all HRS §709-906 misdemeanor cases. Family Court also presides over other misdemeanor and petty misdemeanor cases, such as Assault in the Third Degree and Harassment, that involve spouses, and any felony, misdemeanor or petty misdemeanor offense committed by a parent or legal guardian upon his/her minor child.

The Circuit Court presides over felony cases involving both family and non-family or household members.³

³Family Court judges may be appointed to hear a felony case involving family or household members, but they are sitting as Circuit Court judges in that capacity.

II. ISSUES INVOLVING THE APPLICATION OF MISDEMEANOR CHARGES IN DOMESTIC ABUSE CASES

HRS §709-906 only applies to misdemeanor physical abuse of a family or household member. However, *HRS §709-906 is not the exclusive charge for Misdemeanor Abuse of Family or Household members*. Offenders may instead be charged with other misdemeanor or petty misdemeanor charges, such as Assault in the Third Degree or Harassment, rather than with a violation of HRS §709-906.

HRS §709-906, Abuse of a Family or Household Member, is not the exclusive charge that can be made against a person for abusing a family or household member.

There are a variety of reasons to charge a domestic abuse incident between family or household members under a statute other than HRS §709-906. For example, HRS §709-906 and the statute defining Assault in the Third Degree contain different terms and language. Therefore the law requires proof beyond a reasonable doubt of different elements in each type of case.

Consequently, a complex body of case law, other statutes and constitutional concerns must be considered in each individual case to determine the most appropriate charge.

A person may be initially charged with a HRS §709-906 abuse of family member violation, and the case later reclassified as a different charge, such as Assault in the Third Degree. This occurs because the police are required to show that "probable cause" exists for the arrest. Prosecutors, however, are required to prove each element of the charge beyond a reasonable doubt. Prosecutors may therefore reclassify a case after applying the above considerations to the facts of the individual case.

Reclassification of HRS §709-906 cases

to other misdemeanor or petty misdemeanor charges (such as Assault in the Third Degree) results in:

- a higher conviction or guilty plea rate
- more abusers are held accountable
- abusers do not face a mandatory 48 hour jail term; however, the court has discretion to order any appropriate jail term authorized by statute.

HRS §709-906 carries a mandatory minimum jail sentence of 48 hours. In contrast, other misdemeanor and petty misdemeanor abuse statutes do not contain mandatory jail time.

III. GENERAL NOTES

In reviewing the following Flow Charts and Overview of the Criminal Justice System, it is helpful to keep the following in mind:

1. Family Court has jurisdiction over all types of misdemeanor and petty misdemeanor domestic abuse cases when they involve spouses and other family or household members. The vast majority of misdemeanor domestic abuse cases are heard in Family Court.

District Court has jurisdiction over misdemeanor and petty misdemeanor domestic abuse cases usually involving non-family or household members.

2. The volume of DV offenders entering the criminal justice system is high. In 1998, 1,550 adults and 138 juveniles were arrested in the City and County of Honolulu for abuse of a family member.⁴ This figure only includes persons arrested under HRS §709-906, and therefore does not accurately reflect the true number of domestic violence offenses on Oahu.

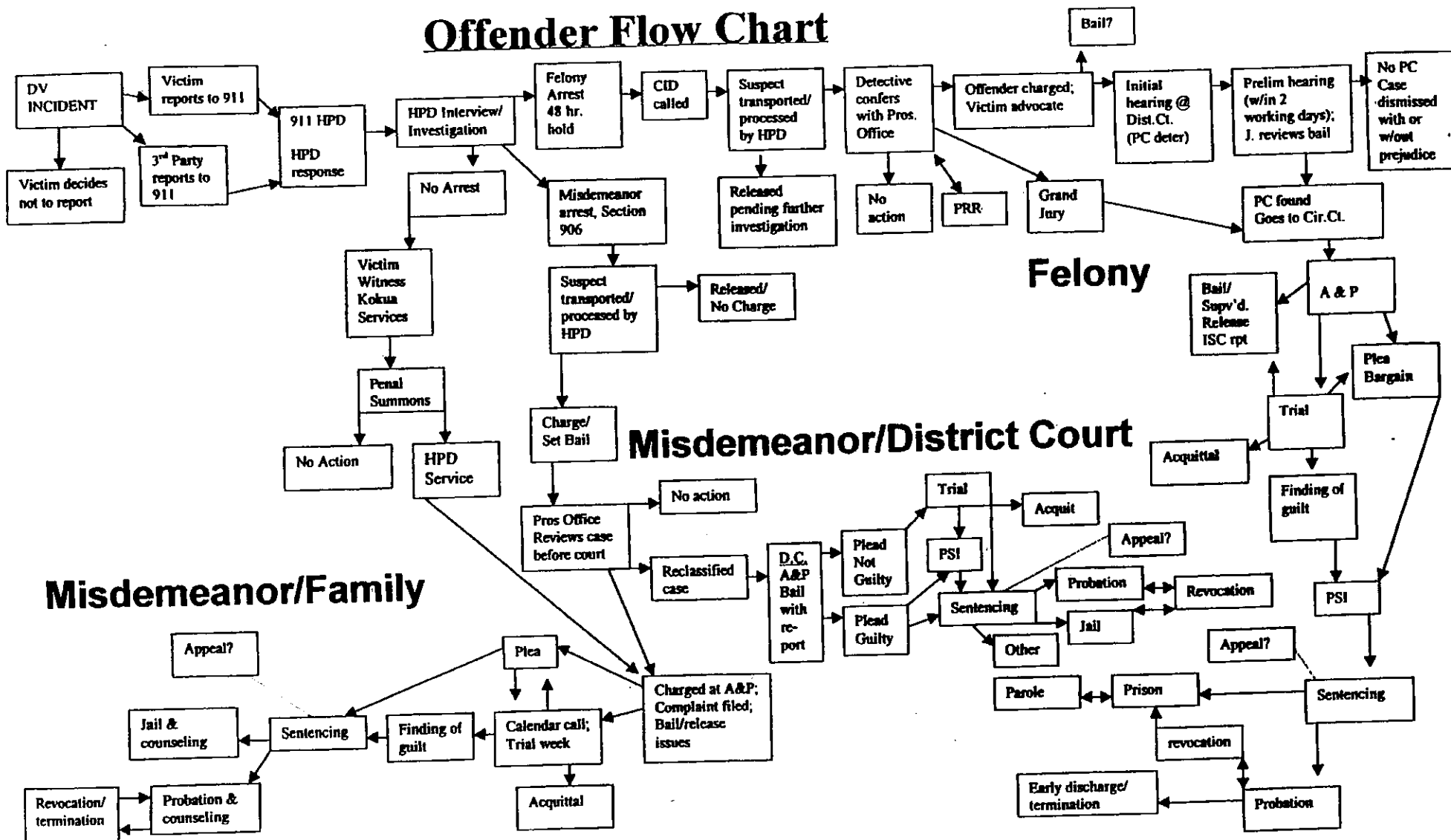
⁴ Honolulu Police Department 1998 Annual Report. While these figures include some arrests for offenses other than HRS §709-906, the vast majority of the arrests are made for alleged violations of that statute.

This figure does not include:

- domestic violence cases charged by penal summons,
- reclassified cases,
- arrests for felonies of a domestic violence nature,
- arrests for non-HRS §709-906 misdemeanors of a domestic violence nature, or
- arrests for petty misdemeanors of a domestic violence nature.

It is usual for the Family Court alone to hear an adult misdemeanor trial calendar of 60 to 90 cases each week. In addition, the Family Court holds an additional 60 hearings per week involving adult misdemeanor Arraignment and Plea and motions hearings regarding offenses of a domestic violence nature.

Offender Flow Chart



OVERVIEW OF THE CRIMINAL JUSTICE SYSTEM FOR A DOMESTIC VIOLENCE OCCURRENCE

The following outline briefly describes the criminal justice process on Oahu as it relates to cases of domestic violence. The outline follows the flowcharts on the prior pages.

I. DOMESTIC VIOLENCE INCIDENT

- A. The victim does not report the incident. The matter does not enter the criminal justice system at this time.
- B. A third party witness and/or the victim calls 911. 911 reports to Honolulu Police Department (HPD) and an officer is dispatched to the scene.

Enters Criminal Justice System.

REFER TO FLOWCHART SECTION ON MISDEMEANOR OFFENSES

II. HPD ARREST

In the interest of brevity, this Report only addresses the HPD policy regarding arrests under HRS §709-906 (misdemeanor charge for abuse of a family or household member). HPD applies other relevant policies in determining probable cause to arrest for other felony or misdemeanor charges involving abuse of a domestic nature.

HPD policy states that police have the authority to arrest a person for a HRS §709-906 offense without a warrant if the officer has probable cause to believe that the person is physically abusing, or has physically abused a family and/or household member.

HPD procedures state that an arrest for abuse of family and/or household member *shall* be made in the following situations:

- When an officer witnesses an act of physical abuse;
- When a victim has visible injuries and the suspect can be determined;
- When a victim complains of pain, and has given a written statement to the officer;
- When a victim complains of pain, and gives a verbal statement that is witnessed by more than one officer;
- When a suspect refuses to comply with the officer's lawful order to leave the premises for a period of separation;

A victim may bring a civil request for a protective order, regardless of whether there is a criminal proceeding or if the criminal charges are dropped.

HPD does not have authority to issue an order of separation unless there is probable cause to believe that physical injury occurred. This means an officer whose presence prevented the occurrence of violence, and who has reason to believe violence will occur once s/he leaves, can not take action to protect the potential victim.

- When a suspect returns to the premises before the expiration of the period of separation.
- A. If HPD does not find probable cause to support an arrest, no arrest is made.
1. Every "no arrest" incident is referred to the Victim Witness Kokua Services (VWKS) Division within the Prosecutor's Office. VWKS will attempt to contact the victim to provide services.
 2. These "no arrest" incidents are also reviewed by Prosecutors. In the event the Prosecutor finds probable cause, either from the arrest report or from information from the victim obtained through VWKS, a penal summons will be filed in court.
 3. HPD attempts to serve the penal summons upon the offender. The summons will direct the offender to appear in court for an Arraignment and Plea. The case will follow the same process as all others from that point.
 - a. Victims are not automatically notified when the offender is served, or of the date of the hearing.
 - b. Victims who are in contact with the Prosecutor's Office are routinely notified if the summons cannot be served or if the matter is dropped.
- B. If probable cause supports an arrest, HPD makes an arrest.
- If the suspect is no longer at the scene, HPD will search for the offender and a warrant may subsequently be issued for his/her arrest.
- C. Arresting officer(s) transport suspect back to HPD station for processing.
1. If further review at the station determines that no probable cause exists, the suspect is released without charge. The matter exits the criminal justice system at this point.
 - Victims are not routinely notified of the release of suspects at this point.
 2. If probable cause exists, the suspect is charged and bail is set.

See Recommendation A-

Outreach to the victim is crucial at this point to provide her/him with information and resources to meet her/his safety, shelter and financial needs. See Recommendation C-6.

Exits Criminal Justice System

III. CHARGING AND SETTING BAIL

A. Charging for Misdemeanor Domestic Abuse

If the injuries inflicted on the victim are consistent with bodily injury or physical abuse, and there are no prior convictions that warrant upgrading the charge to a felony, HPD will charge the suspect with a misdemeanor or petty misdemeanor violation. HPD has the authority to file misdemeanor or petty misdemeanor charges. HPD must confer with the Prosecutor's Office in order to file felony charges.

HPD will file either HRS §709-906 charges if the victim and suspect are family or household members, or with another misdemeanor or petty misdemeanor charge, such as Assault in the Third Degree or Harassment, if they are not.

B. Setting Bail for Misdemeanor Domestic Abuse

HPD has the authority to set bail for misdemeanor domestic abuse cases, regardless of whether the suspect is charged under HRS §709-906 or Assault in the Third Degree.

1. HPD internal guidelines generally impose a minimum bail for HRS §709-906 abuse of household member of \$1,000 for a first offense and \$2,000 for second/subsequent offenses. Maximum bail is generally \$2,000.
2. The minimum bail for Assault in the Third Degree is generally \$100, with a maximum bail of \$2,000.
3. If HPD believes the suspect is a flight risk and/or threat to community safety, they may request the court to order denial of bail. Decisions to deny bail can only be made by the court. A duty judge will make an immediate decision over the phone after an arrest, and a hearing on the matter will generally be held the next working day after the arrest.

C. Miscellaneous [applies to misdemeanor and felony bail]

1. If suspect cannot make bail or is denied bail, s/he remains incarcerated until the Arraignment and Plea (in felony cases, the suspect is held until the initial probable cause hearing). These defendants have a right to a speedy hearing on bail issues, which is generally held the next working day after a misdemeanor arrest, and within two working days of the initial appearance in a felony arrest.

The lack of central records system leads to inability of the various entities within the criminal and civil justice system to identify (1) all prior records of DV offenders, (2) most current and/or concurrent orders from another criminal and/or civil (TRO) justice proceeding, and (3) current criminal and civil justice status of suspect. See Recommendations A-5, C-4 and C-5.

There is no standardized tool to assess the risk to the victim posed by the offender, and no existing means to routinely share that information with the victim and other entities within the criminal justice system. See Recommendations A-3, A-4, C-2 and C-3.

2. If the suspect makes bail, s/he is released, and ordered to appear at the Arraignment and Plea (in felony cases, the suspect is ordered to appear at the initial probable cause hearing). The amount of time between the release and the first court hearing for defendants who are released on bail varies between the different courts.

Victims are not routinely notified of the release of defendants who have been held until this point.

3. The purpose of bail is to ensure the suspect appears at trial, and to protect the public safety. HPD sets bail in misdemeanor cases, and therefore, terms and conditions of bail orders at this point generally do not include victim protective orders, such as stay-away orders. The court will review misdemeanor bail issues at the Arraignment and Plea, and may include such protective orders in misdemeanor cases at that point. In felony cases the court sets the initial bail, and some may include protective orders.

Offenders are not routinely monitored after release on bail. See Recommendation B-8.

Victims and their child(ren) often face the greatest threat to their safety when an offender is released from the criminal justice system, even temporarily. Automatic victim notification of offender pre- and post-trial release is crucial. See Recommendations A-3, A-4, C-6.

IV. PROSECUTOR'S OFFICE REVIEWS MISDEMEANOR DV CHARGES FILED BY HPD

- A. Prosecutors review misdemeanor DV charges made by HPD the working morning after an arrest.

If the prosecutor determines there is insufficient evidence to support any charges, the case may be dropped, the suspect released, and no action taken.

- Victims are not routinely notified of the release of a suspect who remained in custody up to this point. (i.e., bail was denied or the suspect was unable to make bail).

Exits Criminal Justice System

- B. If the prosecutor determines that the evidence supports some charge, the prosecutor will apply the appropriate charging criteria, and may reclassify the incident as a different charge.
 1. HPD need only show probable cause to support an arrest. However, prosecutors must prove guilt beyond a reasonable doubt to obtain a conviction. Therefore, prosecutors may reclassify a justified arrest to a lesser or different charge.
 2. A case originally charged under HRS §709-906 may be reclassified as a different misdemeanor or a petty misdemeanor. If the victim and defendant are husband

Victims may refuse to testify against an offender out of fear for her/his safety and/or the safety of the child(ren) or for other reasons. This may be a factor in some decisions to drop or reclassify charges. See Recommendation B-2.

and wife, the Family Court will hear the case. If the victim and defendant are not married, even if they are living together, the case may be redirected to the District Court.

3. The vast majority of defendants are charged under HRS §709-906 for abuse of family and/or household member, and their cases are handled in Family Court.
- C. If the Prosecutor's Office determines that the evidence supports the case, a complaint is filed in Family Court or District Court the working day after the arrest.
1. Victims might not be contacted prior to filing charges due to the volume of cases and the requirement for a speedy trial.
 2. The Prosecutor's Office has a "no drop" policy, under which it will pursue charges even if the victim asks for them to be dropped. The victim is notified of this policy in writing.

The Prosecutor's Office is often unable to locate or contact the victim to notify her/him of its policies, to prepare her/him for trial or to provide safety information. See Recommendations C-3, C-5 and C-6.

REFER TO FLOWCHART SECTION ON FAMILY COURT SYSTEM FOR MISDEMEANOR DOMESTIC VIOLENCE OFFENSE AGAINST A FAMILY AND/OR HOUSEHOLD MEMBER

I. FAMILY COURT ARRAIGNMENT AND PLEA (A&P).

- A. After the Complaint is filed, the prosecutor, suspect, and his/her attorney appear in Family Court for the A&P.
- Victims are not routinely notified of the A&P prior to the hearing. However, a victim statement signed at the scene of the incident may be considered in setting or reviewing bail during the A&P.
- B. Bail issues are raised.
- The Prosecutor's Office may request an increase in bail above the HPD maximum due to egregious circumstances, threat to community safety, or flight risk.
- C. Protective orders are raised.
1. The prosecutor may request the court to order the

Because DV offenses are handled by three different court divisions results in a lack of uniformity of sentencing, treatment and probation. In addition, there are barriers preventing the different divisions from accessing all Judiciary information regarding offenders' prior records and assessments. See Recommendations A-5 and B-1.

Orders made at the A&P will not be on the bail order list of conditions of release for offenders who were released on bail prior to the A&P. HPD may not know which order to enforce at a later incident due to the lack of a central records system. See Recommendation C-4.

Deputy Prosecutors do not carry prepared written stay-

defendant to stay away from the victim and her/his workplace. These issues apply only when the defendant has already been released on bail, or may be released on bail after the A&P.

2. If Protective Orders are issued at this point for a defendant who was released on bail after the arrest, there now exist two separate orders: the original bail order, and A&P stay-away order.
3. A&P is the first hearing where an offender will be ordered to turn over firearms. This is also true for the District Court and Circuit Court.

D. At any time the defendant may enter into a plea bargain, wherein s/he pleads guilty to the crime as charged or to a lesser or different offense in exchange for an agreed upon sentence.

1. If the defendant pleads at the A&P, s/he proceeds directly to sentencing.
2. A defendant may be immediately released at A&P due to a plea bargain. Victims are not routinely notified of the release of defendants who have remained in custody to this point.

II. TRIAL

- A. If the defendant does not plead guilty, s/he goes to trial.
- B. If the defendant is acquitted, the case exits the criminal justice system.

- Victims are not routinely notified of the release of defendants who have remained in custody to this point.

III. SENTENCING

This section covers sentencing for HRS §709-906 offenses. The Family Court also sentences offenders who have committed an offense in the nature of domestic violence against a family or household member, but who were charged under a different statute. In those cases, the Family Court follows the same sentencing procedures as the District Court. Those are addressed in the following section.

- A. The Family Court judge issues the sentence.
 1. HRS §709-906 provides that misdemeanor abuse of a family and/or household member shall be punished by a mandatory minimum of 48 hours in jail to a maximum of

away order forms to be presented to the Family Court Judge for immediate execution and service. See Recommendation B-3.

There is no standard procedure to determine if offenders have complied with an order to turn over firearms. See Recommendation C-1.

A plea bargain may involve a non-HRS §709-906 offense, and not count as one of three strikes when an offender is charged with a subsequent HRS §709-906 offenses. HRS §709-906 provides that two prior HRS §709-906 convictions may result in a third misdemeanor incident being charged as a Class C felony. See Recommendation A-2.

Exits Criminal Justice System

one year.

2. A defendant who has been incarcerated while waiting for trial may be sentenced to time served and released immediately upon conviction.

- The victims are not routinely notified of the release of defendants who remained in custody to this point.

3. Defendants sentenced under Section HRS §709-906 shall also be sentenced to attend domestic violence intervention programs.

- The judge has the option of ordering the defendant to participate in other programs as well, such as parenting classes or treatment for substance abuse.

4. In addition to the mandatory jail sentence, the Family Court has the authority to sentence the defendant to probation for up to two years.

- a. Probation may include requirements that the defendant continue to participate in programs on domestic violence, parenting, substance abuse or other matters.
- b. The Family Court Adult Services Branch supervises the probation of offenders sentenced by the Family Court.

- B. If the defendant is found guilty at trial, an appeal may be filed after sentencing.

1. During an appeal, a defendant who has been released on bail remains free. Any orders issued by the judge during A&P and/or conditions of release upon bail are still applicable.
2. A defendant who was unable to make bail, or who had bail denied due to egregious circumstances, remains incarcerated pending a decision on appeal.

IV. ADULT SERVICES BRANCH (ASB) PROBATION SUPERVISION

- A. A person convicted under HRS §709-906 may be sentenced to two years of probation. If the Family Court finds that the offender violated his/her terms of probation, the Family Court's

There are no DV intervention programs for offenders in short-term incarceration (up to one year). See Recommendation E-2.

Due to lack of resources, domestic violence intervention programs frequently limit their services to defendants who are court-ordered to attend. Defendants who are willing to attend such programs as a part of a plea agreement may not be able to obtain treatment. See Recommendation E-2.

Program providers are not given sufficient information on offenders' criminal records to be able to tailor dv intervention programs to offenders' needs. See Recommendation A-6.

There is no set, written procedure within ASB to determine when a probation violation is sufficient to require a request to revoke.

jurisdiction over that person may be extended.

- B. In the event of a violation of the terms and conditions of probation, the ASB probation officer may request the Prosecutor's Office to file a Motion for Revocation and/or Termination with the Family Court.
1. If the alleged violation is another DV incident, ASB does not have to wait for charges to be filed before requesting revocation of probation. ASB may act upon the HPD report or a call from a victim.
 2. ASB general guidelines do not mandate "zero tolerance" for probation violations. An offender may violate probation terms up to three times before ASB requests the Prosecutor's Office to file a motion to revoke.
 3. ASB does not routinely notify victims of probation violations. If victims call the ASB officers, they may release that information.
- C. The Prosecutor's Office reviews the case, and may file the Motion with the Family Court.
- Victims are not routinely notified of this action.
- D. A full due process hearing is held to determine if the conditions of probation were violated, and if such violation justifies revocation and/or termination of probation.
- Victims are not routinely notified of this hearing.
- E. The Family Court judge makes the determination whether to revoke and/or terminate probation. If the motion is denied, the offender remains on the terms and conditions of the most recent probation order. If the motion is granted, the offender is re-sentenced, with all options previously identified available to the court.
- Victims are not routinely notified of the decision on a Motion to Revoke Probation.

Individual ASB officers make that determination within the general office guidelines. As a result, revocation motions may not be automatically filed even when there is a domestic violence incident. See Recommendations B-1 and B-6.

ASB may not be authorized to release certain information to victims, and the victims may not know they can request other information. See Recommendation A-4.

**END OF FAMILY COURT DV
CRIMINAL JUSTICE SYSTEM**

**REFER TO FLOWCHART SECTION ON DISTRICT COURT SYSTEM
FOR MISDEMEANOR DOMESTIC VIOLENCE OFFENSES AGAINST
NON-FAMILY OR HOUSEHOLD MEMBERS**

I. ARRAIGNMENT AND PLEA (A&P) IN DISTRICT COURT,

As with Family Court, District Court A&P addresses bail and stay-away issues. A&P is held on the working day following the arrest for defendants who have not been released on bail.

- A. If the defendant pleads guilty, the matter moves directly to the Pre-Sentencing Investigation or the sentencing stage.
- B. The defendant may be released at A&P if s/he pleads guilty and the sentence does not involve further jail. If a defendant pleads not guilty, the court may order a pre-trial release upon terms and conditions set at that time.
 - Victims are not routinely notified of either type of release of defendants who have remained in custody to this point.

II. TRIAL

At A&P the trial is set to be held within two working days for defendants who remain in custody (have not bailed out or were denied bail). If the defendant is released on bail, trial is set within 30 days, or within 60 days if the defendant is represented by a public defender.

- A. If the defendant is acquitted at trial, the matter exits the criminal justice system.
 - Victims are routinely notified of release of defendants who remained in custody to this point.
- B. If the defendant is found guilty, s/he proceeds to Pre-Sentencing Investigation or Sentencing.

*Exits Criminal Justice
System*

III. PRE-SENTENCING INVESTIGATION (PSI)

- A. A PSI may be ordered by the court. A PSI is an investigation conducted by District Court Probation, which identifies any prior criminal record and reports on other relevant biographical/social data for use by the court at sentencing.
- B. PSIs are not required under the law for sentencing a defendant who is at least 22 years old for a misdemeanor offense. In DV-type cases, PSIs are not ordered where a sentencing agreement

*PSIs are also used by the
probation officers in
determining whether the
offender should be
maintained under strict
probation surveillance.*

is accepted by the court, or where the record does not suggest that one is necessary.

IV. SENTENCING

- A. The District Court can sentence a misdemeanor up to 1 year in jail and a petty misdemeanor up to 30 days in jail. There are no mandatory minimum jail sentences for domestic violence type offenses heard in the District Court.
- B. The District Court may order probation and retain jurisdiction over a misdemeanor conviction for up to 1 year. Jail up to 6 months may be ordered as a condition of that probation. If a misdemeanor is sentenced to more than 6 months in jail, the court cannot order probation at all.
 - 1. Probation for petty misdemeanor convictions may be ordered for up to 6 months. Jail cannot be imposed as a condition of such probation.
 - 2. In all probation cases, the court can order the offender to participate in programs, domestic violence intervention, and issue orders protecting the victim from contact. A violation of the terms and conditions of probation may result in a new term of probation, or other re-sentencing.
- C. If the District Court orders a defendant on probation to participate in programs (or any other condition), the defendant will be required to appear before the court for compliance reporting (unless waived by the court, upon report of full compliance).

V. DISTRICT COURT PROBATION DIVISION

The District Court Probation Division supervises offenders on probation, and has a zero tolerance policy towards probation violations in domestic violence-type cases. Any violation of a term of probation will result in a request to the Prosecutor's Office to file a Motion for Revocation. Similar to Family Court, the final decision to revoke rests with the District Court judge.

District Court presides over a much smaller DV caseload than Family Court, and its probation division is able to dedicate more time to monitor probationers.

VI. VICTIM NOTIFICATION DURING THE DISTRICT COURT PROCESS

Similar to the Family Court process, there is no automatic notification to the victim of any release of the defendant during the pre-trial, trial or sentencing process, or during the probation period.

**END OF DISTRICT COURT DV
CRIMINAL JUSTICE SYSTEM**

**REFER TO FLOWCHART
SECTION ON FELONY OFFENSES**

I. FELONY ARREST

- A. If the injuries inflicted on the victim are serious or substantial bodily injuries, or the suspect has prior convictions that warrant upgrading a misdemeanor charge to a felony charge, then HPD officers on the scene will call in a Criminal Investigation Division (CID) Detective to complete the investigation.
- During the investigation, the suspect is transported to HPD and held. Suspects must be charged within 48 hours of the arrest or released. The investigation may continue after the release of an uncharged suspect.
- B. If the Detective finds no probable cause to arrest, the suspect will be released pending further investigation.
- Victims are not routinely notified of the release of suspects at this point.
- C. If the Detective finds probable cause, the Detective will contact a prosecutor. HPD does not have authority to file felony charges, and must confer with a prosecutor to seek felony charges.

*Two prior convictions of a
HRS §709-906
misdemeanor offense where
the second such conviction
occurred within the past two
years warrants a third HRS
§709-906 arrest being
charged as a Class C felony.
However, treatment of
repeat offenders is
inconsistent due to a
deficiency in HRS §709-906.
See Recommendation A-2.*

II. CONFERRAL AND CHARGING

- A. The Detective will confer with the on-duty prosecutor about the case. If the prosecutor accepts the case for immediate charging, s/he will complete the necessary paperwork, the detective returns to HPD with the completed paperwork, and the subject is charged accordingly.
1. Once a suspect is charged with a felony, if s/he has not made bail, s/he must initially appear before a District Court judge and have a preliminary hearing set within 48

hours of that initial appearance. (If s/he made bail, the preliminary hearing will usually be set for about a month following the initial appearance.)

2. All charged cases are referred to VWKS division within the Prosecutor's Office. VWKS attempts to contact the victim, and to provide her/him with information about the case status for the remainder of the criminal justice proceeding, and to offer referrals to support and safety services. While VWKS attempts to provide this service to all victims, in reality the office is unable to contact some victims, or to provide immediate notice regarding all changes in case status or releases of defendants.

B. If the prosecutor finds that the case requires additional investigation, s/he may instruct HPD to release the suspect Pending Reports and Review (PRR). HPD will conduct an additional investigation, and then provide the prosecutor with all pertinent police reports.

1. Upon review of the Report, if the prosecutor determines the evidence supports felony charges, the matter will be brought before a Grand Jury. If the Grand Jury finds probable cause to support the charge, a bench warrant will be issued for the suspect's arrest, and the case will proceed in Circuit Court and follow the same course as an immediate charge case from that point.

- More than 90% of felony cases of a domestic violence nature are immediately charged by the Prosecutor. Only a very small percentage of domestic violence felonies progress through the Grand Jury process.

2. If the prosecutor determines the evidence only supports a misdemeanor or petty misdemeanor charge, the case is re-routed through the misdemeanor process. If the prosecutor determines there is insufficient evidence to support any charges, the case is dropped.

C. If the prosecutor finds no probable cause exists for an arrest, the suspect will be released and no action taken.

- Victims are not routinely notified of suspects' release at this point.

Victims may refuse to testify against an offender out of fear for her/his safety and/or the safety of the child(ren) or for other reasons. This may be a factor in a decision to reclassify or drop charges. See Recommendation B-2.

Exits Criminal Justice System

III. BAIL

HPD does not have authority to set bail in felony cases.

Bail is set by the District Court, and HPD will confer with a judge to set the bail amount at the time of charging.

- Victims are not routinely notified of defendants' release on bail at this point.

IV. INITIAL APPEARANCE IN DISTRICT COURT

Following charging by HPD, at his/her initial appearance in District Court (usually the following working day), the defendant receives a copy of the charges, a copy of the judicial determination of probable cause (signed by a judge), and a date and time for the preliminary hearing.

- The defendant will also receive a copy of the charges, and a date and time will be set for the preliminary hearing.

V. PRELIMINARY HEARING

For defendants who have not made bail, the preliminary hearing must be held within 48 hours of the initial appearance. If the defendant has made bail, the preliminary hearing must be scheduled within 30 days following the initial appearance, unless otherwise approved by the court. At the preliminary hearing, the District Court judge will decide whether sufficient evidence has been presented to permit the determination that there is probable cause to believe that a felony offense has been committed and that the defendant committed the offense; if the court makes this determination, the case is bound over to Circuit Court for trial.

1. If no probable cause is found, the case may be dismissed with or without prejudice. A Grand Jury indictment may be sought.
2. If probable cause is found, the case is bound over to Circuit Court.
3. The judge will usually review bail issues at this point.

*Exits Criminal Justice
System*

VI. CIRCUIT COURT A&P

- A. Similar to District Court and Family Court, the Circuit Court judge will hear the defendant's plea at A&P and, if necessary, review bail issues and set trial.
- B. If the defendant enters into a plea bargain at this stage, s/he will

proceed directly to the Pre-sentencing Investigation stage; however, guilty/no-contest pleas are extremely rare at the A&P stage.

VII. PRE-TRIAL MATTERS

Pending trial, the defendant may make motions affecting custody status, including a motion for supervised release or bail reduction.

- A. The court will receive a pre-trial bail report prepared by the Intake Service Center (ISC) to assist in its decision.
- B. If supervised release or a reduction in bail is granted, conditions of release will be included.

VIII. TRIAL AND POST-TRIAL MATTERS

- A. If the defendant is acquitted at trial, s/he is released.
- B. If the defendant is found guilty, s/he will proceed to the Pre-sentencing Investigation (PSI).
- C. A PSI is required in most felony cases. The Adult Probation Division of the Judiciary prepares a report on the defendant's past record and other matters relevant to sentencing matters. The PSI is used by the sentencing judge in determining the appropriate sentence.
 - Victims may present information to be included in the PSI report through the VWKS office or directly to the court.
- D. The sentencing judge will issue the sentence.
 - 1. The sentence may be to serve:
 - an indeterminate term of imprisonment as provided by law, but not less than 5 years;
 - a term of probation, with or without a special term or condition of jail, not to exceed 1 year;
 - 2. Terms and conditions of probation may include the requirement that the defendant attend domestic violence intervention or other appropriate program.
 - 3. The Circuit Court Adult Probation Division (APD) supervises all offenders placed on probation.

*Exits Criminal Justice
System*

*The option of requiring
offenders to attend
domestic violence
intervention programs is
underutilized due to limited
space in such programs,
and the lack of resources to
design programs tailored to*

4. If an offender violates probation, APD may request the Prosecutor's Office to file a motion to revoke probation. The process is the same in Family Court and District Court.

address the different issues of repeat offenders, and offenders with substance abuse and/or mental health problems. See Recommendations E-1 - E-3.

- E. Defendants may file an appeal after the sentence is issued. Defendants who were released on bail earlier remain on bail during an appeal, and the original terms and conditions of bail apply.
- F. An offender may be released or discharged from probation earlier than the original sentence. The Circuit Court makes decisions on early discharge and/or termination of probation.

IX. PAROLE

- A. Hawaii Paroling Authority (HPA) is a statutorily created, quasi-judicial body that is administratively attached to the Department of Public Safety.
- B. Once an offender is sentenced to serve time in prison, jurisdiction over that prisoner is transferred from the Judiciary to the Department of Public Safety. Within the first six months of the prison term, the Parole Board meets to set the prisoner's minimum sentence.
 1. A judge may sentence an offender to prison for a maximum amount of time, such as 10 years. HPA will meet to set the minimum amount of time that prisoner must serve before s/he can be considered for release on parole. Therefore a prisoner sentenced to 10 years may be ordered to serve a minimum of 4 years before becoming a candidate for parole.
 2. A judge's sentence may include a mandatory minimum time to be served in prison. In these cases, the prisoner must serve at least that time prior to parole consideration.
- C. A prisoner may re-apply to HPA during his/her imprisonment for a "reduction of minimum sentence" set by HPA (HPA has no authority to reduce a mandatory minimum sentence set by a judge). If the prisoner meets certain guidelines, HPA may reduce his/her minimum sentence. In the above example, the 4 year minimum sentence may be reduced to 2 years in prison.
- D. In any Parole Board decision, a prisoner will be ordered to serve the remainder of his/her original judicial sentence on

Offenders are not specifically identified as domestic violence offenders when transferred to the Department of Public Safety. This creates problems with implementing domestic violence intervention programs and notifying victims of the offender's release. See Recommendation B-4.

parole. In the above example, if the prisoner's request were granted after 2 years in prison, s/he would be released to serve the remaining 8-year sentence on parole.

1. Parole officers monitor parolees. If there is a violation of the terms and conditions of parole, the officer may bring the matter before the HPA or address the violation through counseling or a referral.
2. HPA's options include re-imprisoning the offender, imposing harsher parole terms, or issuing a warning. Under no circumstances can HPA exceed the original judicial sentence.
 - Due to statutorily imposed confidentiality requirements, HPA cannot notify victims of alleged violations of the terms and conditions of parole.
3. Parolees can request the HPA provide them with an early discharge from parole. In the above example, an offender may be released from parole after 2 years. Hence an original sentence of 10 years may result in 2 years in prison, and 2 on parole.

- E. HPA does not routinely notify victims of
- (1) the minimum sentence set by HPA,
 - (2) requests by the offender to reduce the minimum sentence,
 - (3) reductions of HPA's minimum sentence,
 - (4) an offender's release on parole,*
 - (5) the terms and conditions of parole, or
 - (6) violations of those terms or conditions.

* Where the victim has submitted a request through the Prosecutor's Office, HPA will notify her/him of the offender's release on parole.

**END OF FELONY/CIRCUIT COURT DV
CRIMINAL JUSTICE SYSTEM**

Domestic Violence Working Group Recommendations for Changes in the Oahu Criminal Justice System

I. THE DVWG MADE ALL DECISIONS BY CONSENSUS

The DVWG agreed that the Group would operate by consensus. This was done in the process of identifying gaps and needs as well as determining recommendations.

There are several gaps identified by the Group for which consensus on recommendations was not reached. These gaps are identified in *Appendix D*.

The Group also produced this Report by consensus. Each draft of the Report was reviewed and edited by the Group, and the final product was approved by the Group as a whole.

II. RECOMMENDATIONS ARE GROUPED BY TOPIC, AND NOT BY ORDER OF PRIORITY

The Group members all agree that the following recommendations address current gaps or needs within the criminal justice system. Each recommendation is significant. Although individual Group members may prioritize these recommendations differently, all DVWG members believe each recommendation is important.

Accordingly, the recommendations and categories are not placed in any order of priority. The recommendations are grouped by subject matter simply for reference and to provide an organized report.

In several instances, the Group made several recommendations to address a single identified gap. However, these recommendations may be placed into different categories. Therefore, a gap may be listed in more than one category. In these cases, the Report cross-references the related recommendations.

A. RECOMMENDATIONS REQUIRING STATUTORY CHANGES

Gap

No statute exists that effectively deals with domestic violence by delineating several degrees of severity.

RECOMMENDATION A-1

Enact a statute related to abuse of household members containing three degrees of offenses.

Include the newly created felony (above) in the repeat offender statute (HRS 706-606.5).

For those felony offenses not falling under the provisions of HRS §709-906, but where the offense involved household members as defined in HRS §709-906, at least the same minimum sentence should apply.

Enact changes in statutory language which will allow the police to issue an order of separation when the officer feels that harm is imminent (HRS §709-906(4)(b)).

Gap

Treatment of Class C felony repeat offenders is inconsistent due to a deficiency in HRS §709-906 (creates Modica situation).

RECOMMENDATION A-2

Enact legislation which corrects the deficiency in HRS §709-906, such as was proposed in 1999 in House Bill 1484, HD1, *See Appendix E*. Alternate legislation (*See Recommendation A-1*) should also avoid Modica problems.

Gap

There is insufficient offender risk assessment and a need for increased sharing of the information about risk with victims. *See also Recommendation C-2.*

RECOMMENDATION A-3

Enact legislation expanding authority to provide information to victims about their risk of harm from violent offenders.

Gaps

There is (1) a limitation in the amount of information a probation officer is able to give to the victim, and
(2) a lack of consistency between probation officers regarding notification to the victim concerning the offender's failure to comply with the terms and conditions of probation.

For example, victims are not routinely notified by probation officers when a defendant's random drug test comes back positive. Victims may be unaware that they can ask for information from probation officers.

RECOMMENDATION A-4

Enact legislation which enables the release of certain information to victims.

Gap

Probation officers are unable to review Family Court records.

RECOMMENDATION A-5

Enact legislation to permit probation officers to have access to Family Court files.

Gaps

Domestic Violence service providers have limited ability to access criminal history about offenders.

There is insufficient sharing of information on the criminal history of offenders; this information is not available at all points in the criminal justice system.

RECOMMENDATION A-6

Enact legislation that authorizes the Judiciary to release the criminal abstract to agencies specifically contracted to provide services to offenders who are court-ordered to participate.

B. RECOMMENDATIONS INVOLVING THE COURT SYSTEM

Gaps

There is no specialized domestic violence court at the Circuit Court level (like a drug court).

There is a lack of uniformity between courts concerning sanctions imposed for non-compliance with probation terms and conditions, and this creates uncertainty for victims and service providers.

There is no consolidation, including sharing of information, of actions that are on different tracks in different courts (computer challenges).

RECOMMENDATION B-1

Create a domestic violence division within the Judiciary, including, but not restricted to:

Facilities: designated facility to handle all civil and criminal domestic violence cases, including safe waiting areas and adequate facilities for services;

Staffing: court staff, probation, judges;

Training: specialized training to all, including deputy sheriffs;

Services to victims and offenders;

Accommodations for domestic violence intervention programs and services;

Staff to do timely intake assessments, immediate referrals, and crisis services;

Adequate equipment, including computers (hardware and software).

Gap

Given existing Hawaii law, the Prosecutor's Office, in most cases, cannot prove a case without the victim's presence.

Video conference testimony is not utilized.

RECOMMENDATION B-2

Examine ways to take cases to trial without the victim's presence, including "victim unavailability" options to enable proceeding without the victim's presence.

Explore greater use of video conference testimony.

Research statutes from other jurisdictions where Prosecutors are able to proceed without the victim's presence/testimony.

Gap

There is no written stay-away order form presented by the Prosecutor's Office to the Family Court for subsequent use by the victim.

RECOMMENDATION B-3

The Prosecutor's Office should submit a standard stay-away order form at Family Court for immediate execution (to be used at any stage of the court proceedings).

Gap

Convicted and sentenced domestic violence offenders are not specifically identified by the Department of Public Safety for purposes of intervention programs and victim notification of offender's release.

RECOMMENDATION B-4

All court paperwork transmitted to the Public Safety Department should identify an inmate sentenced for an offense involving domestic violence.

Gap

There are not enough safe waiting areas at courts.

RECOMMENDATION B-5

Create a domestic violence division within the Judiciary.

Assign trained security personnel to increase safety to victims.

Rearrange waiting areas to separate victims, offenders, witnesses and jurors.

Gap

No officers in the Circuit Court Probation Division are specially trained to deal with domestic violence; and there are no purchase of service monies for treatment.

RECOMMENDATION B-6

Create specialized probation officer positions to handle domestic violence cases (District/Family/Circuit).

Provide training.

Provide technical assistance.

Provide services (DV intervention, urinalysis, substance abuse treatment, polygraph, electronic monitoring).

If the Judiciary creates a domestic violence division, establish these positions within that division of the Judiciary.

Gap

Not all divorce restraining orders and other orders are compliant and enforceable in accordance with the requirements of the Violence Against Women Act (VAWA).

RECOMMENDATION B-7

All orders of protection that the Judiciary issues should be VAWA compliant,* including in divorce and other proceedings.

*A protection order issued by a State or tribal court is VAWA compliant if:

1. The issuing court has jurisdiction over the parties and matter under the law of such State or Indian tribe; and
2. Reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process.

Gap

Offenders are not routinely monitored after release on bail and before trial.

RECOMMENDATION B-8

Enhance pre-trial monitoring of offenders released on bail to increase victim safety.

C. RECOMMENDATIONS

ADDRESSING INFORMATION AND COMMUNICATION

Gap

There is no standard procedure in criminal cases to confirm whether an offender has complied with an order to turn over firearms.

RECOMMENDATION C-1

The police, prosecuting attorneys, and the Judiciary should examine the search warrant process and enforcement under HRS 134-7.

The court should schedule compliance hearings to determine whether firearms have been turned over.

Gap

There is insufficient offender risk assessment and a need for increased sharing of the information about risk with victims.

RECOMMENDATION C-2

Formulate and utilize a standardized risk assessment tool(s) that can be shared within the justice system (as defined in the scope of the report).

See also Recommendation A-3.

Gap

There is insufficient communication among the entities providing victims' services (including referrals) and insufficient working agreements and protocols about sharing information.

RECOMMENDATION C-3

Create a uniform consent form authorizing the release of information for use by victim services programs and the Victim Witness Kokua Program, for the exclusive use and benefit of the victim. The form would provide victims with an opportunity to "opt out" in whole or in part. The form would have language in it that would inform the victim of the consequences of providing the information (informed consent).

Create working agreements among agencies to share the information.

Gaps

There are inconsistencies between terms and conditions of probation, pre-trial orders, and stay-away orders, and this creates problems for the police regarding enforcement.

Multiple orders present difficulties for the police.

There is no central registry for protective/stay-away orders.

RECOMMENDATION C-4

Create a standardized format for civil and criminal court orders of protection.

Create a central registry for stay-away, probation, TROs, protective orders, and pre-trial orders.*

* A statewide TRO system is being developed by the HCJDC as a pilot forerunner of the statewide Wants/Warrants system, which will not be available for another one to two years. The TRO database, however, should be available by early 2000 and will consist of images and demographics for TROs, protective orders and District Court injunctions. Terms and conditions of probation and pre-trial release are being considered as part of the statewide OBTs/CCH system, and not the Wants/Warrants system.

Gap

There is insufficient sharing of information, and an inability to access information systems, between the police, paroling authority, service providers, and the Judiciary regarding violations and arrests for acts subsequent to the original conviction.

RECOMMENDATION C-5

Create working agreements among police, probation, parole, and service providers to ensure offender accountability and enhance victim safety through improved communication and information system access.

Gaps

There is insufficient notification to victims concerning an offender's release if the victim is not in touch with the Prosecutor's Office, or if the victim does not know to request notification of release.

There is limited availability of victim advocacy services and support after trial.

Contact with the victim is difficult due to barriers such as

RECOMMENDATION C-6

Increase and expand domestic violence service providers' capacity to include advocacy, outreach, case management and immediate response services.

Re-examine, refine, and further develop services to victims throughout the civil and criminal justice system.

The Prosecutor's Office, Victim Witness Kokua Services, in collaboration with victim service providers, should develop an automated notification system to notify victims of the pre- and post-trial release of an offender.*

the unavailability or inaccessibility to telephones and safety concerns.

Information often is not conveyed to victims by deputy prosecuting attorneys because of time or resource constraints.

There is a lack of resources for advocacy, outreach, and case management to victims throughout the system.

There needs to be strengthened coordination of existing resources for advocacy, outreach, and case management to victims throughout the system.

There is a lack of resources for victims' services.

*The Victim Witness Kokua Services Division of the Department of the Prosecuting Attorney is involved in the development of an automated information and notification system for crime victims on the Island of Oahu. The system, when operational, will permit crime victims to access current information about the status of their case and the custody status of the defendant. In addition to telephone inquiries, a victim may request automated notification of the offender's release or other significant developments in the criminal justice process. The system will be available 24 hours a day and seven days a week. Victims will be able to listen to selected information about community resources available to assist crime victims. The system is expected to be operational by the Fall of the year 2000.

Gap

There is a gap in available technology and training for evidence collection.

RECOMMENDATION C-7

Continue the use of VAWA funds, and seek other funding sources, to provide state of the art training and technology to law enforcement for the purpose of evidence collection in domestic violence cases.

D. RECOMMENDATIONS INVOLVING PROGRAMS AND SERVICES FOR VICTIMS

Gaps

There is insufficient treatment of domestic violence victims with substance abuse problems and/or mental health issues.

There is insufficient cross-training on subject matter and collaboration between the domestic violence and substance abuse, mental health, youth services, and health care provider communities.

RECOMMENDATION D-1

Improve collaboration between substance abuse, mental health, youth services, health care providers, and domestic violence programs.

Provide cross-training for substance abuse, mental health, youth services, and domestic violence programs.

Provide domestic violence training for health care providers.

Provide in-house specialist, or the ability to consult with a specialist, with substance abuse and/or mental health and domestic violence expertise.

Gap

There are limited services for adolescent victims of partner abuse.

RECOMMENDATION D-2

Cross train adolescent service providers and domestic violence service providers for the purposes of identifying safety and adolescent special needs.

Design or adopt programs to meet the needs of adolescent victims of partner abuse, including, but not limited to, outreach, prevention and intervention.

Provide adolescents who are victims of partner abuse, access to orders for protection and domestic violence services in general without adult consent.

Gap

Persons with disabilities in domestic violence situations can be more vulnerable and confront additional barriers to services. There is a gap in sensitivity and outreach for persons in domestic violence situations who have disabilities.

RECOMMENDATION D-3

Maintain dialogue between domestic violence and disabilities groups to assure training and protocol implementation.

Provide access to all domestic violence programs.

Gap

There are insufficient translation and interpretation services for domestic violence victims.

RECOMMENDATION D-4

Continue and expand interpretation services to include translation services for all victims.

Provide sign language interpretation, braille, use of TTY for all victims in need of those services.

E. RECOMMENDATIONS INVOLVING PROGRAMS FOR OFFENDERS

Gaps

There is insufficient information and data on different interventions that are effective for offenders.

There is a lack of individually tailored programs for offenders.

RECOMMENDATION E-1

Conduct a comprehensive evaluation of existing domestic abuse offender programs in Hawaii. This evaluation should include, but not be limited to:

An inventory and description of offender programs;

An analysis of current program models;

A comparison with current best practices in other jurisdictions;

An identification of next steps and follow up.

Gaps

There are no services provided to short-term (up to one year) incarcerated offenders.

There are no intervention services specially designed for repeat offenders.

There are insufficient domestic violence intervention services for offenders who are court-ordered (priority entry), and for others who volunteer.

RECOMMENDATION E-2

Design programs to provide (1) intervention services for repeat offenders, (2) services for short-term incarcerated offenders, and (3) for those who are not court-ordered, but are willing to participate.

Use risk assessment tools to place offenders in appropriate programs (no cookie-cutter approach).

Gaps

There is insufficient treatment of offenders with substance abuse problems and/or mental

RECOMMENDATION E-3

Improve collaboration between substance abuse, mental health, youth services, health care providers, and domestic

health issues.

There is insufficient cross-training on subject matter and collaboration between the domestic violence and substance abuse, mental health, youth services, and health care provider communities.

violence programs.

Provide cross-training for substance abuse, mental health, youth services, and domestic violence programs.

Provide domestic violence training for health care providers.

Provide in-house specialist, or the ability to consult with a specialist, with substance abuse and/or mental health, and domestic violence expertise.

Gap

There are insufficient translation and interpretation services for domestic violence offenders in non-court matters.

RECOMMENDATION E-4

Continue and expand interpretation services to include translation services for all offenders.

Provide sign language interpretation, braille, use of TTY for all offenders needing those services.

F. RECOMMENDATIONS INVOLVING FUTURE WORKING GROUPS

RECOMMENDATION F-1

The work mandated by House Concurrent Resolution No. 65, House Draft 1, should be continued and financially supported for the purpose of facilitating and coordinating the implementation of the Recommendations in this Report. In addition, the effectiveness of the implementation and the Recommendations should be evaluated and reported to the Legislature.

RECOMMENDATION F-2

The Legislature should convene a specialized group to examine the justice system as it relates to youth involved in domestic violence. In particular, that group should address the complex issues regarding protecting child witnesses to domestic violence without punishing the adult/parent victim, and the special needs of adolescents who are subject to partner abuse.

**TABLE DESIGNATING THE AGENCIES AND ENTITIES HAVING SOME RESPONSIBILITY AND INVOLVEMENT IN IMPLEMENTING THE RECOMMENDATIONS
CONTAINED IN THIS REPORT**

CONTAINED IN THIS REPORT

AFFECTED ENTITIES		RECOMMENDATIONS																														
		Requiring Statutory Changes						Involving the Court System								Addressing Information & Communication							Programs for Victims				Programs for Offenders				Future Work	
		A1	A2	A3	A4	A5	A6	B1	B2	B3	B4	B5	B6	B7	B8	C1	C2	C3	C4	C5	C6	C7	D1	D2	D3	D4	E1	E2	E3	E4	F1	F2
LEGISLATURE	BILL	•	•	•	•	•	•																									
	FUNDING						•					•																		•	•	
JUDICIARY							•				•	•	•	•	•	•	•		•	•					•							
PROSECUTOR								•		•						•	•															
VICTIM WITNESS KOKUA SERVICES																		•			•				•							
HONOLULU POLICE DEPARTMENT																•	•			•		•			•							
HAWAII PAROLING AUTHORITY																			•													
PUBLIC SAFETY DEPARTMENT											•				•																	
VICTIM ADVOCATE SUPPORT ORGANIZATIONS																	•	•		•	•		•	•	•	•						
DV OFFENDER INTERVENTION PROGRAMS																	•				•					•	•	•	•			
OTHER SERVICE PROVIDERS																							•	•	•							

APPENDIX A

HOUSE OF REPRESENTATIVES
TWENTIETH LEGISLATURE, 1999
STATE OF HAWAII

HCR NO. 65
HD 1

HOUSE CONCURRENT RESOLUTION

REQUESTING THE ATTORNEY GENERAL TO CONVENE A WORKING GROUP TO LOOK AT
DOMESTIC VIOLENCE POLICIES AND PROCEDURES OF THE CRIMINAL JUSTICE SYSTEM
ON OAHU AND IDENTIFY GAPS.

1 WHEREAS, domestic violence is among the most critical
2 issues impacting the lives of women and girls today, affecting
3 their health and economic viability, and endangering their
4 lives and often the lives of their children; and
5

6 WHEREAS, the majority of women murdered in Hawaii are
7 killed by their partners or boyfriends; and
8

9 WHEREAS, HB. No. 590 (1999) addresses the problem of
10 domestic violence and sexual assault-related deaths by
11 establishing a protocol for the development and implementation
12 of Adult Death Review Teams to review any adult domestic
13 violence and sexual assault-related deaths; and
14

15 WHEREAS, domestic violence service providers, the law
16 enforcement community, and the Attorney General support the
17 concept of Adult Death Review Teams, but do not agree that
18 Adult Death Review Teams are the most appropriate means to
19 reduce the incidence of domestic violence-related homicides and
20 suicides; and
21

22 WHEREAS, these groups have agreed that the primary purpose
23 behind an Adult Death Review Team is to identify gaps in the
24 system, including critical and missing information, which would
25 effectively focus Hawaii's law enforcement and service efforts
26 to better meet the victim's needs in establishing a safety net;
27 and
28

29 WHEREAS, these groups have also acknowledged the need to
30 have a better understanding of the exact path a victim or
31 perpetrator takes through each of the agencies or programs;
32 now, therefore,
33

34 BE IT RESOLVED by the House of Representatives of the
35 Twentieth Legislature of the State of Hawaii, Regular Session
36 of 1999, the Senate concurring, that the Attorney General is
37 requested to convene a working group to review the policies and
38 procedures of the criminal justice system on Oahu as they
39 relate to cases of domestic violence, identifying gaps and
40 areas in the law requiring change or further attention; and

BE IT FURTHER RESOLVED that the working group include but not be limited to the following participants:

- (1) Domestic violence services providers;
- (2) The Hawaii State Coalition Against Domestic Violence;
- (3) A representative from the Department of Public Safety;
- (4) A representative from the county police departments;
- (5) A representative from the county prosecuting attorney offices;
- (6) One representative each from the Family Court, District Court, and Circuit Court;
- (7) A representative from the Hawaii Paroling Authority; and
- (8) One representative from the Adult Probation Division of the Judiciary; and

BE IT FURTHER RESOLVED that the Attorney General submit the findings and recommendations of the working group to the Legislature no later than twenty days prior to the convening of the Regular Session of 2000; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Attorney General, the Executive Directors of the Hawaii State Coalition Against Domestic Violence and the Hawaii State Commission on the Status of Women, the Director of Public Safety, the Prosecuting Attorney of each county, the Chiefs of Police of each county, and the Chief Justice.

APPENDIX B

In the interest of obtaining additional input, the Department of the Attorney General notified 85 people in the following 17 organizations/entities of the DVWG process, and invited them to submit their recommendations to be included in the Group's review.

1. Hawaii State Coalition Against Domestic Violence Members (Statewide)
2. Oahu Domestic Violence Task Force Members
3. Maui County Domestic Violence Task Force Members
4. Kauai Family Violence Council Members
5. County Chiefs of Police (4)
6. County Prosecutors (4)
7. Hawaii State Coalition Against Domestic Violence, Battered and Formerly Battered Women's Caucus
8. Director, Department of Health
9. Director, Department of Human Services
10. Child Protective Services Administrator, DHS
11. Office of the Public Defender
12. Hawaii Association of Criminal Defense Lawyers
13. League of Women Voters
14. Hawaii Nurses Association
15. Queen Lili'uokalani Children's Center
16. Commissioners, Hawaii State Commission on the Status of Women
17. Na Loio (Advocates for Immigrant Women)

Responses were received from the following entities:

Family Court of the Second Circuit
Family Advocacy Division, Commander in Chief, U.S. Pacific Command, Camp HM Smith
League of Women Voters of Hawaii
Department of Human Services
Department of Health
County of Kauai Police Department
County of Hawaii Police Department
City and County of Honolulu Police Department
Department of Community Services, City & County of Honolulu
YWCA of Kauai
Legal Aid Society of Hawaii
Domestic Violence Interagency Team (DVIAT), Hawaii County
Hawaii State Coalition Against Domestic Violence, Battered/Formally Battered Women's
Caucus

The Department of the Attorney General sent a letter of appreciation to every person who responded to the request.

APPENDIX C

GLOSSARY OF TERMS

A&P	<p>Arraignment and Plea</p> <p>A hearing in court which addresses the charges brought against the defendant, hears the defendant's plea, and addresses bail and other relevant issues.</p>
APD	<p>Adult Probation Division</p> <p>APD is the office within the Circuit Court that supervises probation. See Probation.</p>
ASB	<p>Adult Service Branch</p> <p>ASB is the office within the Family Court that supervises probation. See Probation.</p>
CID	<p>Criminal Investigation Division of the Honolulu Police Department</p> <p>Among other responsibilities, Detectives from this division are sent to the scene of possible felony offenses of a domestic violence nature to conduct the criminal investigation and to confer with Prosecutors, if necessary, to seek felony charges.</p>
DCPD	<p>District Court Probation Division</p> <p>DCPD is the office within the District Court that supervises probation. See Probation.</p>
GJ	<p>Grand Jury</p> <p>A Grand Jury is convened in state felony cases only when charges are not initially levied by the Prosecutor's Office. The Grand Jury will review the evidence brought by the Prosecutors, and determine if there is probable cause to charge the defendant with committing a felony.</p>
HPA	<p>Hawaii Paroling Authority</p> <p>See text under Parole</p>
ISC	<p>Intake Service Center</p> <p>This office is part of the Department of Public Safety. Prior to a defendant charged with a felony being considered for supervised release and/or bail reduction, the ISC will prepare a report for the Judiciary containing information on the defendant's past criminal record and other pertinent matters, including the suitability of any proposed sponsor for the defendant.</p>
Parole	<p>Parole is a supervised early release from prison that contains terms and conditions set by the Hawaii Paroling Authority. Once an offender is sentenced to prison, jurisdiction over that offender's sentence moves from the Judiciary to the Department of Public Safety. If the prisoner is eligible for parole, the Hawaii Paroling Authority decides whether to release the offender, and what terms and conditions to apply. Parole Officers will supervise the offender during the term of parole. If the offender violates parole terms, the Parole Officer will bring the matter before the HPA to determine if parole should be revoked.</p>
Plea Bargain	<p>An agreement by which the defendant pleads guilty to a certain crime in exchange for an</p>

agreed-upon sentence. The agreement is between the defendant and the Prosecutor, and must be approved by the Court.

Probation	Probation is a supervised sentence that contains terms and conditions set by the Judiciary. An offender may be sentenced to serve jail time and probation, or to just probation. Each Court has its own office that supervises probationers sentenced by that Court. If the probationer violates the terms and conditions of probation, the Probation Officer requests the Prosecutor's Office to file a motion with the Court seeking to revoke probation. At that hearing, if the Court decides to revoke probation, the offender is re-sentenced, with all the original sentencing options available to the Court.
PSI	<p>Pre-Sentencing Investigation</p> <p>An investigation conducted by probation offices of the Court, which identifies any prior criminal record and reports on other relevant biographical/social data. PSIs are used by judges for sentencing purposes. PSIs are not required under the law for sentencing a defendant who is at least 22 years old for a misdemeanor offense. Generally PSIs are not ordered for domestic violence-type misdemeanor offenses where a sentencing agreement is accepted by the Court, or where the record does not suggest that one is necessary.</p>
PRR	<p>Pending Reports and Review</p> <p>In felony cases where additional HPD investigation is required before charging, the suspect may be released following his/her initial arrest pending further investigation. The Detective assigned to the case will conduct the additional investigation and, when the investigation is completed, s/he will send all pertinent police reports to the Prosecutor for evaluation and review. If, based on that evaluation and review, the Prosecutor decides to pursue the felony case, s/he will present the case to the Grand Jury and seek an indictment.</p>
PC	<p>Probable Cause</p> <p>The legal standard of probable cause is that, given the evidence presented, a reasonable person could find that the offense charged was probably committed by the person charged with that offense.</p>
RC	<p>Reclassified Charge</p> <p>Misdemeanor charges are filed by HPD. Upon review, a Prosecutor may reclassify the original charge to a different charge or to a different jurisdiction (e.g. HRS §709-906 Family Court reclassified to Assault in the Third Degree in District Court). Prosecutors will base this decision upon the facts of the individual case and the elements required to be proved in each charge. The Prosecutor's Office makes the final determination on what charges are brought against defendants in misdemeanor and felony cases.</p>
VWKS	<p>Victim Witness Kokua Services</p> <p>A division within the Prosecutor's Office. The VWKS is responsible for providing victims with information on the status of the case against the defendant, and referrals to other support and advocacy services.</p>

APPENDIX D

GAPS IDENTIFIED BY THE DVWG FOR WHICH NO CONSENSUS ON RECOMMENDATIONS WAS REACHED

- | | |
|------------|--|
| Gap | There is no mandatory drug testing of all domestic violence offenders at the Family Court, and a potential future lack of mandatory testing at the District Court. |
| Gap | Bail may be waived in domestic violence cases. |
| Gap | Pre-Sentencing Investigations (PSIs) are not routinely done for domestic violence misdemeanor cases. |
| Gap | There is no automatic assessment for custody offenders in Family Court. |
| Gap | There is a lack of recognition of the traumatic effect domestic violence has on child witnesses. |
| Gap | There is a lack of coordination between the agencies and providers who serve domestic violence victims and the agencies that serve children. |

APPENDIX E

HOUSE OF REPRESENTATIVES
TWENTIETH LEGISLATURE, 1999
STATE OF HAWAII

H.B. NO.1484
H.D. 1

A BILL FOR AN ACT

RELATING TO DOMESTIC VIOLENCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

- 1 SECTION 1. Section 709-906, Hawaii Revised Statutes, is
2 amended as follows:
- 3 1. By amending subsection (5) to read:
- 4 "(5) Abuse of a family or household member and refusal to
5 comply with the lawful order of a police officer under subsection
6 (4) are misdemeanors and the person shall be sentenced as
7 follows:
- 8 (a) [For] Except as provided in subsection (7), for the
9 first [offense] conviction of abuse of a family or
10 household member, the person shall serve a minimum jail
11 sentence of forty-eight hours; and
- 12 (b) [For a second offense and any other subsequent offense
13 that occurs within one year of the previous offense,]
14 Except as provided in subsection (7), for a second
15 conviction for abuse of a family or household member,
16 the person shall be termed a "repeat offender" and
17 serve a minimum jail sentence of thirty days.
- 18 Upon conviction and sentencing of the defendant, the court shall
19 order that the defendant immediately be incarcerated to serve the

1 mandatory minimum sentence imposed; provided that the defendant
2 may be admitted to bail pending appeal pursuant to chapter 804.
3 The court may stay the imposition of the sentence if special
4 circumstances exist."

5 2. By amending subsection (7) to read:

6 "(7) [For any subsequent offense occurring within two years
7 after a second misdemeanor conviction, the person shall be
8 charged with] Any offense of abuse of a family or household
9 member committed subsequent to a second conviction for abuse of
10 family or household member is a class C felony. In addition, any
11 offense of abuse of a family or household member committed
12 subsequent to any two prior convictions for:

- 13 (a) Assault in the first degree;
14 (b) Assault in the second degree;
15 (c) Assault in the third degree;
16 (d) Abuse of a family or household member;
17 (e) Terroristic threatening in the first degree;
18 (f) Terroristic threatening in the second degree; or
19 (g) Kidnapping;
20 involving the same family or household member is a class C
21 felony."

22 SECTION 2. This Act does not affect rights and duties that
23 matured, penalties that were incurred, and proceedings that were
24 begun, before its effective date.

1 SECTION 3. Statutory material to be repealed is bracketed.

2 New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.

In accordance with the Americans with Disabilities Act, P.L. 101-336, this material is available in an altered format, upon request. If you require an altered format, please call the Department of the Attorney General, Crime Prevention and Justice Assistance Division at (808) 586-1150.